



**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1997 ASSEMBLY BILL 807**

March 16, 1998 - Offered by COMMITTEE ON LAND USE.

1 **AN ACT to amend** 59.69 (5) (a), 59.69 (5) (e) 2., 60.61 (4) (b), 60.61 (4) (c) 1., 62.23
2 (7) (d) 1. a., 62.23 (7) (d) 1. b. and 62.23 (7) (d) 2.; and **to create** 59.69 (5) (f), 60.61
3 (4) (e) and 62.23 (7) (d) 4. of the statutes; **relating to:** requiring notice to
4 persons affected by zoning actions that change the allowable use of their
5 property.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

6 **SECTION 1.** 59.69 (5) (a) of the statutes is amended to read:
7 59.69 (5) (a) When the county zoning agency has completed a draft of a
8 proposed zoning ordinance, it shall hold a public hearing thereon, following
9 publication in the county of a class 2 notice, under ch. 985. If the proposed ordinance
10 has the effect of changing the allowable use of any property, the notice shall include
11 either a map showing the property affected by the ordinance or a description of the
12 property affected by the ordinance and a statement that a map may be obtained from

1 the zoning agency. After such hearing the agency may make such revisions in the
2 draft as it considers necessary, or it may submit the draft without revision to the
3 board with recommendations for adoption. Proof of publication of the notice of the
4 public hearing held by such agency shall be attached to its report to the board.

5 **SECTION 2.** 59.69 (5) (e) 2. of the statutes is amended to read:

6 59.69 (5) (e) 2. Upon receipt of the petition by the agency it shall call a public
7 hearing on the petition. Notice of the time and place of the hearing shall be given
8 by publication in the county of a class 2 notice, under ch. 985. If an amendment to
9 an ordinance, as described in the petition, has the effect of changing the allowable
10 use of any property, the notice shall include either a map showing the property
11 affected by the amendment or a description of the property affected by the
12 amendment and a statement that a map may be obtained from the zoning agency.

13 A copy of the notice shall be mailed by registered mail to the town clerk of each town
14 affected by the proposed amendment at least 10 days prior to the date of such
15 hearing. If the petition is for any change in an airport affected area, as defined in
16 s. 62.23 (6) (am) 1. b., the agency shall mail a copy of the notice to the owner or
17 operator of the airport bordered by the airport affected area.

18 **SECTION 3.** 59.69 (5) (f) of the statutes is created to read:

19 59.69 (5) (f) The county zoning agency shall maintain a list of persons who wish
20 to receive notice of any proposed ordinance or amendment that affects the allowable
21 use of the person's property. If the county zoning agency completes a draft of a
22 proposed zoning ordinance under par. (a) or if the agency receives a petition under
23 par. (e) 2., the agency shall send a notice, which contains a copy of the proposed
24 ordinance or petition, to each person on the list in any reasonable form that is
25 requested by the person. The agency may charge each person on the list a fee for the

1 notice that does not exceed the approximate cost of providing the notice to the person.
2 If the agency does not send the notice to any person who requested it and the board
3 enacts an ordinance or an amendment to an ordinance that is substantially similar
4 to the ordinance or amendment that is, or should have been, described in the
5 requested notice, the person may commence an action in the circuit court where the
6 property is located for a declaratory judgment that the agency did not send the
7 requested notice to the person. If the court issues the requested declaratory
8 judgment, the ordinance or amendment to an ordinance does not apply to, and may
9 not be enforced against, the person or the person's property. If the court that is
10 requested to issue a declaratory judgment finds that the agency has a list showing
11 the names of all persons who requested the notice described in this paragraph that
12 includes the person's name, and the form in which the person requested the notice,
13 the court shall presume that the notice was sent.

14 **SECTION 4.** 60.61 (4) (b) of the statutes is amended to read:

15 60.61 (4) (b) Before the town board may adopt an ordinance under sub. (2), the
16 town zoning committee shall recommend zoning district boundaries and appropriate
17 regulations and restrictions for the districts. In carrying out its duties, the town
18 zoning committee shall develop a preliminary report and hold a public hearing on the
19 report before submitting a final report to the town board. The town zoning committee
20 shall give notice of the public hearing on the preliminary report and of the time and
21 place of the public hearing on the report by a class 2 notice under ch. 985. If the town
22 zoning committee makes a substantial change in its report following the public
23 hearing, it shall hold another public hearing on the report. After the final report of
24 the town zoning committee is submitted to the town board, the board may adopt an
25 ordinance under sub. (2) following a public hearing held by the board on the proposed

1 ordinance. The town board shall give notice of the public hearing on the proposed
2 ordinance and of the time and place of the public hearing on the ordinance by a class
3 2 notice under ch. 985. If the proposed ordinance has the effect of changing the
4 allowable use of any property, the notice shall include either a map showing the
5 property affected by the ordinance or a description of the property affected by the
6 ordinance and a statement that a map may be obtained from the town board.

7 **SECTION 5.** 60.61 (4) (c) 1. of the statutes is amended to read:

8 60.61 (4) (c) 1. After the town board has adopted a town zoning ordinance, the
9 board may alter, supplement or change the boundaries or regulations established in
10 the ordinance if a public hearing is held on the revisions. The board shall give notice
11 of any proposed revisions in the zoning ordinance and of the time and place of the
12 public hearing on them by a class 2 notice under ch. 985. If the proposed amendment
13 would have the effect of changing the allowable use of any property, the notice shall
14 include either a map showing the property affected by the amendment or a
15 description of the property affected by the amendment and a statement that a map
16 may be obtained from the town board. The board shall allow any interested person
17 to testify at the hearing. If any proposed revision under this subdivision would make
18 any change in an airport affected area, as defined in s. 62.23 (6) (am) 1. b., the board
19 shall mail a copy of such notice to the owner or operator of the airport bordered by
20 the airport affected area.

21 **SECTION 6.** 60.61 (4) (e) of the statutes is created to read:

22 60.61 (4) (e) The town board shall maintain a list of persons who wish to receive
23 notice of any proposed ordinance or amendment that affects the allowable use of the
24 person's property. If the town zoning committee completes a final report on a
25 proposed zoning ordinance and the town board is prepared to vote on the proposed

1 ordinance under par. (b) or if the town board is prepared to vote on a proposed
2 amendment under par. (c) 1., the town board shall send a notice, which contains a
3 copy of the proposed ordinance or amendment, to each person on the list in any
4 reasonable form that is requested by the person. The town board may charge each
5 person on the list a fee for the notice that does not exceed the approximate cost of
6 providing the notice to the person. If the town board does not send the notice to any
7 person who requested it and the board enacts an ordinance or an amendment to an
8 ordinance that is substantially similar to the ordinance or amendment that is, or
9 should have been, described in the requested notice, the person may commence an
10 action in the circuit court where the property is located for a declaratory judgment
11 that the town board did not send the requested notice to the person. If the court
12 issues the requested declaratory judgment, the ordinance or amendment to an
13 ordinance does not apply to, and may not be enforced against, the person or the
14 person's property. If the court that is requested to issue a declaratory judgment finds
15 that the town board has a list showing the names of all persons who requested the
16 notice described in this paragraph that includes the person's name, and the form in
17 which the person requested the notice, the court shall presume that the notice was
18 sent.

19 **SECTION 7.** 62.23 (7) (d) 1. a. of the statutes is amended to read:

20 62.23 (7) (d) 1. a. Upon the request of the city council, the city plan commission,
21 the board of public land commissioners, or if the city has neither, the city plan
22 committee of the city council shall prepare and recommend a district plan and
23 regulations for the city. Following the formulation of tentative recommendations a
24 public hearing shall be held by, at the council's option, the council, the plan
25 commission, the board of public land commissioners or the plan committee. At least

1 10 days' prior written notice of any such hearings shall be given to the clerk of any
2 municipality whose boundaries are within 1,000 feet of any lands included in the
3 proposed plan and regulations but failure to give such notice shall not invalidate
4 such district plan or regulations. Publication of a class 2 notice, under ch. 985, of the
5 tentative recommendations and hearings thereon must be made once during each of
6 the 2 weeks prior to such hearing. If the proposed district plan and regulations have
7 the effect of changing the allowable use of any property within the city, the notice
8 shall include either a map showing the property affected by the plan and regulations
9 or a description of the property affected by the plan and regulations and a statement
10 that a map may be obtained from the city council.

11 **SECTION 8.** 62.23 (7) (d) 1. b. of the statutes is amended to read:

12 62.23 (7) (d) 1. b. The council may make changes in the tentative
13 recommendations after first submitting the proposed changes to the plan
14 commission, board of public land commissioners or plan committee for
15 recommendation and report and after publishing a class 2 notice, under ch. 985, of
16 the proposed changes and hearings thereon as well as the notice to the clerk of any
17 contiguous municipality as required in subd. 1. a. Hearings on the proposed changes
18 may be held by, at the council's option, the council, the plan commission, the board
19 of public land commissioners or the plan committee. If the proposed changes to the
20 proposed district plan and regulations have the effect of changing the allowable use
21 of any property within the city, the notice shall include either a map showing the
22 property affected by the changes or a description of the property affected by the
23 changes and a statement that a map may be obtained from the city council.

24 **SECTION 9.** 62.23 (7) (d) 2. of the statutes is amended to read:

1 62.23 (7) (d) 2. The council may adopt amendments to an existing zoning
2 ordinance after first submitting the proposed amendments to the city plan
3 commission, board of public land commissioners or plan committee for
4 recommendation and report and after providing the notices as required in subd. 1.
5 b. of the proposed amendments and hearings thereon. In any city which is not located
6 in whole or in part in a county with a population of 500,000 or more, if the proposed
7 amendment would make any change in an airport affected area, as defined in sub.
8 (6) (am) 1. b., the council shall mail a copy of such notice to the owner or operator of
9 the airport bordered by the airport affected area. A hearing shall be held on the
10 proposed amendments by, at the council's option, the council, the plan commission,
11 the board of public land commissioners or the plan committee. If the proposed
12 amendment has the effect of changing the allowable use of any property within the
13 city, the notice shall include either a map showing the property affected by the
14 amendments or a description of the property affected by the amendments and a
15 statement that a map may be obtained from the city council. If the council does not
16 receive recommendations and a report from the plan commission, board of public
17 land commissioners or plan committee within 60 days of submitting the proposed
18 amendments, the council may hold hearings without first receiving the
19 recommendations and report.

20 **SECTION 10.** 62.23 (7) (d) 4. of the statutes is created to read:

21 62.23 (7) (d) 4. The city council shall maintain a list of persons who wish to
22 receive notice of any proposed zoning action that may be taken under subd. 1. a. or
23 b. or 2. that affects the allowable use of the person's property. If the plan commission,
24 the board of public land commissioners or city plan committee of the city council
25 completes action on any tentative recommendations that are noticed under subd. 1.

1 a., proposed changes to a proposed district plan and regulations that are submitted
2 under subd. 1. b. or proposed amendments that are submitted under subd. 2. and the
3 city council is prepared to vote on the tentative recommendations, proposed changes
4 to a proposed district plan and regulations or proposed amendments, the city council
5 shall send a notice, which contains a copy of the tentative recommendations,
6 proposed changes to a proposed district plan and regulations or proposed
7 amendments, to each person on the list in any reasonable form that is requested by
8 the person. The city council may charge each person on the list a fee for the notice
9 that does not exceed the approximate cost of providing the notice to the person. If
10 the city council does not send the notice to any person who requested it and the city
11 council enacts an ordinance or an amendment to an ordinance that is substantially
12 similar to the ordinance or amendment that is, or should have been, described in the
13 requested notice, the person may commence an action in the circuit court where the
14 property is located for a declaratory judgment that the city council did not send the
15 requested notice to the person. If the court issues the requested declaratory
16 judgment, the ordinance or amendment to an ordinance does not apply to, and may
17 not be enforced against, the person or the person's property. If the court that is
18 requested to issue a declaratory judgment finds that the city council has a list
19 showing the names of all persons who requested the notice described in this
20 subdivision that includes the person's name, and the form in which the person
21 requested the notice, the court shall presume that the notice was sent.

22 (END)